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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,211	02/16/2000	Mark J. Buxton	042390.P7983	5977

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN, LLP
12400 Wilshire Boulevard 7th Floor
Los Angeles, CA 90025

EXAMINER

TRAN, ELLEN C

ART UNIT PAPER NUMBER

2134

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,211

Applicant(s)

BUXTON, MARK J.

Examiner

Ellen C Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23,29,32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,12-16,23 and 29 is/are allowed.
- 6) ☒ Claim(s) 6-11,17-22,32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to communication: 28 October 2004, with an original filing date of 16 February 2000.
2. Claims 1, 12, 23, and 29 have been amended. Claims 24, 25, 26, 27, 28, 30, and 31 have been cancelled.
3. Claims 1-23, 29, 32-33 are currently pending in this application. Claims 1, 6, 12, 17, 23, and 32 are independent claims.

Response to Arguments

4. Applicant's arguments with respect to claims 6-11, 17-22, 32, and 33 have been considered but they are not found persuasive.

With respect to applicant's argument on page 9, with respect to the 112 second paragraph objection, the applicant states "The claims must be read in light of the Specification. Therefore the meaning of the claim term "channel" is definite, and this rejection must be withdraw". The Office disagrees, the term channel is objected to because it is unclear whether applicant is claiming "broadband channels" as indicated on page 2 of the specification or "transmission channels used" as in indicated on page 3 of the specification.

With respect to applicant's argument on page 10 "the Examiner object to the use of the term "distributor". However, this term is NOT used anywhere in these claims". The Office disagrees with argument. The claims use the term "distribution" the office action was obviously referring to this term when it cited "distributor" because "distribution" is the verb form of "distributor" as well as the difference in the two words is only in the last two or three letters. In addition the applicant used the term "distributor" in his own arguments on page 13. Therefore

the 112 objections remain. Applicant is reminded, appropriate details should be provided in the claims to avoid confusion. In addition although the claims will be interpreted in light of the specification, limitations from the specification cannot be read into the claims.

With respect to applicant's argument concerning claims 1-5, 12-16, 23, 25,26,28, 30, and 31, on page 10, "Aras does not teach or suggest that an entity "upstream" in the content distribution system from the receiver". The Office states these claims are allowable due to amendment. Therefore arguments presented directed to these claims are not addressed.

With respect to applicant's argument on page 12, "the Office action cites Aras at col. 5, lines 1-51 as disclosing the claimed limitation of determining if a channel for distributing the content is trusted. The cited text does not in fact teach". The Office disagrees, determining trust is shown throughout '417 reference in addition see col. 5, lines 35-41 "the home station consults a channel classification table (CCT) to obtain a general category rating for the channel". (i.e. "category rating" same as "trusted").

With respect to applicant's argument on page 12, "Wool does not teach or suggest that masks can be applied to the content itself (i.e. the TV program)". The Office disagrees with argument the applicant is arguing the references individually where the applied in combination. Aras does teach a mask can be applied to the content itself see '417 col. 4, line 49 through col. 5, line 3.

With respect to applicant's arguments on page 13, Wool does not teach "content after mask applied", "masking has already been performed (by a content provider or distributor)", "sending the content after mask applied data to the receiver for subsequent rendering ... is not taught or suggested in Wool", "the limitation of encrypted the masked content is not taught or

suggested”, “limitation of reversing the masking is not taught or suggest” again the applicant is arguing the references individually where they were applied in combination.

With respect to applicant’s argument on page 15, “One skilled in the art would not be motivated to combining the two cited references because the combination would not result in the claimed invention. The combination does not teach or suggest masking of selected content and distribution of the masked content to downstream entities”. The Office disagree with argument, ‘417 teaches masking selected portions of content and ‘948 teaches distribution, encryption, and authorization.

With respect to applicant’s argument on page 15 with respect to independent claim 32, “at least several limitation are not taught or suggest by the cited art. First the cited art does not determine the security of the transmission channel ... Second the limitation of deterring a mode of distribution is not disclosed”. The Office disagrees with arguments the references are used in combination. First the security of the transmission channel is taught in ‘417, which determines whether the received content category. Second determining a mode of distribution is shown in ‘417 see col. 4, lines 48-67 which describes a home station that is an access point to a plurality of audio-visual materials (AVMs).

Claim Rejections

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 6-11, 17-22, 32, and 33** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claims 6, 17, and 32 the term “channel” is indefinite. It is unclear whether the “channel” is referring to a name designated to a broadcast station (such as Disney, HBO, or FOX) or determining if the recipient of the digital content is receiving the digital content by an authorized means provided by a cable provider or an unauthorized person tapping into the line for transmission.

Also in claims 6, 17, and 32 it is unclear whether the term “distribution” is referring to a provider (such as cable TV, satellite, or broadcast station) or a home unit, where a base unit distributes the digital content to other users within a home or a facility, from cable line, a VCR station, or a DVD player, or other like devices.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 6-11, 17-22, 32, and 33** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aras et al. U.S. Patent No. 5,757,417 (hereinafter ‘417) in further view of Wool, U.S. Patent No. 6,373,948 (hereinafter ‘948).

As to independent claim 6, “A method of content level filtering and distribution of digital content obtaining the digital content and a mask for obfuscating” is disclosed in ‘417 col. 4, line 49 through col. 5, line 3;

“determining if a channel for distributing the content is trusted; is taught in ‘417 col. 5, lines 1-51;

the following is not taught in '417 **“encrypting the masked content”**; ... **“sending the content after mask applied data and the encrypted masked content to a receiver, decrypting the masked content, and reversing masking to reproduce original content for subsequent rendering when the receiver is trusted; and sending the content after mask applied data to the receiver for subsequent rendering of the content after mask applied data when the receiver is not trusted”** however '948 teaches “Generally, encrypted programming content is transmitted by a service provider using a transmitter, or head-end server, to one or more customers. According to one aspect of the invention, a program identifier, p, used to identify the program is transmitted to the customer with the programming content. ... The set-top terminal preferably receives entitlement information periodically from the head-end, corresponding to one or more packages of programs ... The set-top terminal needs to decrypt any program, p, that belongs to the customer's entitled subspace, U, but no other programs” in col. 2, line 52 through col. 3, line 59.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of '417 that teach a method for screening audio-visual material to include encryption with distribution. One of ordinary skill in the art would have been motivated to perform such a modification because encryption with program identifiers provide distributors the ability to provide more different packages to the user. As indicated by '948 (see col. 2, lines 29 et seq.) “While such previous systems for encrypting and transmitting programming content have been relatively successful in restricting access to authorized customers, they do not permit a service provider, such as a television network, to offer many different packages containing various numbers of programs to customers”.

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As to dependent claims 7, “when the channel is trusted, performing the following: determining if a receiver of the digital content is trusted; sending the digital content to the receiver for subsequent rendering when the receiver is trusted; and applying the mask to the digital content to generate content after mask applied data and sending the content after mask applied data to the receiver is not trusted” is taught in ‘417 col. 5, lines 1-51;

As to dependent claims 8, 9, and 10 “wherein the digital content comprises video data and the mask comprises a replacement two dimensional region for a selected portion of one or more frames of video data” and “... audio data and the mask comprises a replacement audio clip for a selected portion of the digital content” and “... three dimensional volume data and the mask comprises a replacement three dimensional region for selected portion of the digital content” is taught in ‘417 col. 2, lines 52-60.

As to dependent claim 11, “wherein application of the mask results in replacement of a selected portion of the digital content with a replacement creative component” is shown in ‘417 col. 12, lines 33-67.

As to independent claim 17, this claim is directed to the storage medium of the method of claim 6 and is therefore rejected along similar rationale.

As to dependent claims 18-22, these claims contain substantially similar subject matter as claims 7-11 and are therefore rejected along similar rationale.

As to dependent claim 24, **“wherein the mask generator links the content with the regions, generates a mask, applies the mask to the content to produce content after mask applied data and masked content”** is taught in ‘417 col. 11, line 42 through col. 12 line 32.

“and encrypts the masked content” is shown in ‘948 col. 2, line 52 through col. 3, line 59.

As to dependent claim 27, **“further comprising a distributor to transmit content after mask applied data and encrypted masked content to a receiver”** is disclosed in ‘948 col. 1, lines 3-5 **“to a system for transmitting an encrypted program together with a program identifier which is used by a set-top terminal”**.

As to dependent claim 29, **“wherein the receiver comprises a decryptor to decrypt the encrypted masked content and a de-masker to reverse masking of the content after mask applied data to reproduce original content for rendering by the receiver”** is taught in ‘948 col. 2, line 52 through col. 3, line 59.

As to independent claim 32, **“A method of distributing digital content in a hierarchical content distribution system comprising: determining security of a transmission channel; determining a mode of content distribution; when the mode is a first mode performing: obtaining the digital content and a mask to apply to the digital content to obfuscate selected portion of the digital content when the transmission channel is trusted; and obtaining content after mask applied data when the transmission channel is trusted; and obtaining content after mask applied data when the transmission channel is not trusted; when the mode is not a first mode, obtaining content after mask applied data”** is shown in ‘417 col. 4, line 49 through col. 5, line 3;

“and encrypted masked content; and sending obtained data to other entities in the hierarchical content distribution system” is taught in ‘948 in col. 2, line 52 through col. 3, line 59.

As to dependent claim 33, **“further comprising sending the obtained data to at least one receiver”** is shown in ‘417 col. 4, line 49 through col. 5, line 3.

Allowable Subject Matter

9. The following is an examiner’s statement of reasons for allowance: Claims 1-5, 12-16, 23, and 29 are allowed, due to amendment and arguments presented in amendment on page 11, that the reference does not teach ‘determining, by a content provider in the content distribution system, if a receiver of the digital content is trusted’, as claimed. The Office agrees the reference does not teach that the content provider determines whether a receiver is “trusted” i.e. can receive a particular rating for content material.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance”.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen C Tran whose telephone number is (571) 272-3842. The examiner can normally be reached from 6:30 am to 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A Morse can be reached on (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ellen. Tran
Patent Examiner
Technology Center 2134
26 February 2005



GREGORY M. [unclear]
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2134